

**WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

John P. O'Toole, Esq. (Atty. I.D. No. 38791989)

Andrew L. Smith, Esq. (Atty. I.D. No. 011822011)

200 Campus Drive

Florham Park, New Jersey 07932

Tel: (973) 624-0800

Fax: (973) 624-0808

*Attorneys for Defendants Vasily Sherbuk and Car Carrier, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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RAUL MONROY VILLA,

Plaintiff,

v.

CAR CARRIER, INC., VASILY  
SHERBUK, GUSTAVO ARDON  
PERDOMO, GIOS LOGISTICS  
LLC, JD NESBITT-WARD,  
ONTARIO IN, et als.

Defendants.

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:  
:  
: Civil Action No.  
:

**NOTICE OF REMOVAL**

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW JERSEY

Defendants Vasily Sherbuk and Car Carrier, Inc. ("Defendants") by and  
through its attorneys, Wilson Elser Moskowitz Edelman and Dicker LLP, hereby file  
this Notice of Removal for the removal of this case from the Superior Court of New  
Jersey, Law Division, Hudson County, to the United States District Court for the



District of New Jersey pursuant to 28 *U.S.C.* § 1332(a) and 28 *U.S.C.* § 1441, *et seq.*

In support thereof, Defendants state as follows:

1. On or about March 8, 2021, Plaintiff Raul Monroy Villa (“Plaintiff”) commenced an action against Defendants in the Superior Court of New Jersey, Law Division, Hudson County, captioned *Raul Monroy Villa v. Vasily Sherbuck; Car Carrier, Inc., et al.*, Docket No. HUD-L-958-21 (the “State Court Action”).

2. The Summons and Complaint are the initial pleadings sent to Defendants forming the basis for this action. Copies of the Summons and Complaint in the State Court Action are attached as Exhibit “A”.

3. The Summons and Complaint were served upon Defendants on April 7, 2021. Thus, this Notice of Removal is timely filed pursuant to 28 *U.S.C.* § 1446(b), having been filed within thirty (30) days after receipt by Defendants of the summons and initial pleading setting forth Plaintiff’s claims for relief.

#### *Pertinent Background*

4. This case pertains to an April 11, 2019 motor vehicle accident, in which Plaintiff was the passenger of a vehicle/box-truck being operated by Co-Defendant Gustavo Ardon Perdomo (“Mr. Perdomo”). At the time of this accident, Plaintiff and Mr. Perdomo were working for Co-Defendant Gio’s Logistics (“Gio’s Logistics”).



5. Plaintiff alleges that his above vehicle was rear-ended by another motor vehicle/tractor trailer being operated by the Defendant, Vasily Sherbuk. At the time of the accident, Defendant, Mr. Sherbuk, was employed by Car Carrier, Inc.

6. This accident is already the subject of pending litigation in the United District Court, District Court of New Jersey, under case name *Gustavo Ardon Perdomo v. Vasily Sherbuk and Car Carrier, Inc.*, docket number 2:20-cv-02363-JMV-MF which is being actively case managed by Judge Mark Falk.

7. Mr. Perdomo is represented by Salim F. Sabbagh, Esq., of Brach Eichler, in that suit.

8. This instant application is being filed in order to remove Plaintiff's matter to the District Court of New Jersey so that these two lawsuits, concerning the same subject matter, accident and parties, can be consolidated in the interests of justice and for judicial convenience.

9. If these matters do not eventually become consolidated, Defendants, along with the parties, will be forced to litigate the facts and issues attendant to this motor vehicle accident twice in two separate forums. It would be much more convenient if Plaintiff's instant lawsuit was removed and then consolidated with Mr. Perdomo's pre-existing matter in the federal court under docket number 2:20-cv-02363-JMV-MF.



*Diversity Jurisdiction*

10. That all being said, the Defendants recognize that the sole applicable basis for removal in the instant matter is premised on diversity jurisdiction. Otherwise, there is no federal question.

11. 28 U.S.C. §1332(a)(1) provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between ... citizens of different States.” The party seeking removal bears the burden of establishing diversity jurisdiction. *See, e.g., Judon v. Travelers Prop. Cas. Co. of Am.*, 773 F.3d 495 (3d Cir. 2014) and *Morgan v. Gay*, 471 F.3d 469 (3d Cir. 2006).

12. In Mr. Perdomo’s pre-existing federal lawsuit, the parties were/are 100% diverse.

13. Here, the parties are mostly diverse.

14. Plaintiff plead that his residence was/is in New Jersey.

15. Mr. Perdomo resided/resides in Maryland.

16. Co-Defendant JD Nesbitt is located in Indianapolis.

17. The Defendants are based out of Pennsylvania.

18. Finally, Gio’s Logistics, Plaintiff and Mr. Perdomo’s employer, was/is incorporated in New Jersey. However, it does conduct business all throughout the



northeast region of the United States. This is known from discovery that has already been conducted in Mr. Perdomo's pre-existing federal lawsuit.

19. Although Plaintiff and Gio's Logistics appear to be non-diverse, it is respectfully requested that the Court nevertheless permit the removal of the instant lawsuit as it contains the identical facts and issues already being litigated in Mr. Perdomo's pre-existing federal matter.

20. With regard to Gio's Logistics, it is also worth mentioning that as Mr. Perdomo and Plaintiff's employer, it is unequivocally barred from this instant suit by virtue of the New Jersey Worker's Compensation Bar, *N.J.S.A.* § 34:15-8. Therefore, Gio's Logistics should not remain as a defendant in this case.

21. Based upon these facts, it is respectfully requested that the instant removal application be granted as the parties are mostly diverse.

*Amount in Controversy*

22. By virtue of Mr. Perdomo's pre-existing federal lawsuit, the Defendants are aware that Plaintiff will be alleging serious personal injuries in excess of \$75,000.

23. As the driver of their vehicle, Mr. Perdomo already testified as to Plaintiff's injuries and damages.



24. Based upon information and belief, Plaintiff seeks relief in excess of \$75,000, exclusive of interest and costs. Accordingly, Defendants submit that the requisite amount in controversy for federal diversity jurisdiction is satisfied.

*The Procedural Requirement for Removal Have Been Satisfied*

25. On April 7, 2021, Defendants were forwarded a copy of the Summons and Complaint. Since this Notice of Removal is being filed within 30 days of service on Defendants, this Notice of Removal is timely under 28 *U.S.C.* § 1446(b).

26. This action is being removed “to the district court of the United States for the district and division embracing the place where such action is pending.” *See* 28 *U.S.C.* §§ 100(2), 1441(a).

27. This action has been on file for less than one year under 28 *U.S.C.* § 1446(c).

28. Pursuant to 28 *U.S.C.* § 1446(d), Defendants are filing written notice of this removal, in substantially the form attached hereto as “Exhibit B”, with the Clerk of the Court in which the action is currently pending. A copy of Defendants’ Notice (to the Clerk of the Superior Court of New Jersey, Law Division, Hudson County) of Filing of Notice of Removal to the United States District Court, together with this Notice of Removal, is being served upon Plaintiff pursuant to 28 *U.S.C.* § 1446(d).

29. Defendants reserve the right to supplement this Notice of Removal.



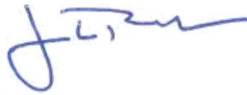
30. By filing this Notice of Removal, Defendants do not waive their right to object to service, service of process, the sufficiency of process, venue or jurisdiction, and reserves the right to assert any claims, defenses and/or objections to which it may be entitled.

WHEREFORE, Defendants respectfully request that this Court accept this Notice of Removal and that this Court assume jurisdiction over this action.

**Respectfully submitted,**

**WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER  
LLP**

*Attorneys for Defendants Vasily Sherbuk and Car Carrier, Inc.*



By: \_\_\_\_\_  
John P. O'Toole

Dated: May 6, 2021



# **Exhibit A**



Apr 08 2021 01:44PM Car Carrier 2159532054

page 2

From:

03/30/2021 14:39

#066 P.011/017

LAW OFFICE OF NICHOLAS M. TORRES, LLC  
 5300 BERGENLINE AVE., 3<sup>RD</sup> FL.  
 WEST NEW YORK, NJ 07093  
 TEL: (201) 330-1119  
 ATTORNEYS FOR PLAINTIFF(S)

RAUL MONROY VILLA,

PLAINTIFF,

VS.

CAR CARRIER INC, CAR CARRIER LLC,  
 VASILY SHERBUK, GUSTAVO ARDON  
 PERDOMO, GIOS LOGISTICS LLC,  
 JD NESBITT-WARD, ONTARIO IN,  
 JOHN & JANE DOES 1-10 (FICTITIOUS  
 UNIDENTIFIED INDIVIDUALS) AND  
 ABC CORPORATIONS 1-10 (FICTITIOUS  
 UNIDENTIFIED BUSINESS ENTITIES),

DEFENDANTS.

: SUPERIOR COURT OF NEW JERSEY  
 : LAW DIVISION: HUDSON COUNTY  
 : DOCKET NO. HUD-L-000958-21

CIVIL ACTION

SUMMONS

Vasily Sherbuck  
 4930 Dara Faith Dr  
 Trevoze PA, 19053

FROM THE STATE OF NEW JERSEY, TO THE DEFENDANT(S) NAMED ABOVE:

The Plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the County listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided). If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of Superior Court, Hughes Justice Complex, CN 971, Trenton, N.J. 09625. A filing fee \*payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appears above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and Case Information Statement) if you want the court to hear



Apr 08 2021 01:44PM Car Carrier 2159532054

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page 3

From:

03/30/2021 14:39

#956 P.012/017

your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Enclosed with this Summons is the original Complaint with Track Assignment Notice, Order permitting the filing of the Amended Complaint and the Amended Complaint.

DATED: March 25, 2021

/S/JENNIFER M. PEREZ  
JENNIFER M. PEREZ  
CLERK OF THE SUPERIOR COURT

Name of Defendant to be served: Vasily Sherbuck

Address of Defendant to be served: 4930 Dara Faith Dr  
Trevose PA, 19053

\*\$105.00 FOR CHANCERY DIVISION CASES OR \$110 FOR LAW DIVISION CASES.

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Apr 08 2021 01:44PM Car Carrier 2159532054

page 4

From:

03/30/2021 14:39

#956 P.013/017

**DEPUTY CLERKS' ADDRESSES**

Atlantic County, 1201 Bacharach Blvd., Atlantic City, NJ 08830  
 Bergen County Justice Center, 10 Main St., Hackensack, NJ 07601  
 Burlington County Courts Facility, 49 Rancocas Rd., Mt. Holly, NJ 08060  
 Camden County Hall of Justice, 101 S. 5th St., Camden, NJ 08103-4001  
 Cape May County Ctise., Main St., Cape May Court House, NJ 08210  
 Cumberland County Court House, Broad & Fayette St., Bridgeton, NJ 08302  
 Essex County Cty. Cts. Bldg., 50 W. Market St., Newark, NJ 07102  
 Gloucester County Court House, 1 N. Broad St., Woodbury, NJ 08096  
 Hudson County Admin. Bldg., 595 Newark Ave., Jersey City, NJ 07306  
 Hunterdon County Court House, Main Street, Flemington, NJ 08822  
 Mercer County Court House, P.O. Box 8068, Trenton, NJ 08650-0068  
 Middlesex County Court House, 1 Kennedy Sq., New Brunswick, NJ 08903  
 Monmouth County Court House, 71 Monument Park, Freehold, NJ 07728  
 Morris County Court House, P.O. Box 900, Morristown, NJ 07963-0900  
 Ocean County Court House, 118 Washington St., Toms River, NJ 08754  
 Passaic County Court House, 77 Hamilton St., Paterson, NJ 07505-2017  
 Salem County Court House, 92 Market St., Salem, NJ 08079  
 Somerset County Court House, P.O. Box 3000, Somerville, NJ 08876-1262  
 Sussex County Court House, 43-47 High St., Newton, NJ 07860  
 Union County Court House, 2 Broad St., Elizabeth, NJ 07207  
 Warren County Courthouse, 2nd & Hardwick St., Belvidere, NJ 07823

	<b><u>LEGAL AID OFFICES</u></b>	<b><u>LEGAL SERVICES OFFICES</u></b>
* Atlantic County	(609) 348-4200	(609) 345-3444
Bergen County	(201) 487-2166	(201) 488-0044 or 692-1011
Burlington County	(609) 261-1088	(609) 261-4862
Camden County	(609) 964-1002	(609) 964-4520
Cape May County	(609) 465-3001	(609) 463-0313
Cumberland County	(609) 692-2400	(609) 692-6207
Essex County	(973) 622-1514	(973) 622-6207
Gloucester County	(609) 848-5360	(609) 848-4589
Hudson County	(201) 792-6363	(201) 798-2727
Hunterdon County	(908) 782-7979	(908) 735-2611
Mercer County	(609) 695-6249	(609) 890-6200
Middlesex County	(609) 249-7600	(609) 828-0053
Monmouth County	(908) 747-7400	(908) 431-5544
Morris County	(201) 285-6911	(201) 267-5882
Ocean County	(908) 341-2727	(908) 240-3666
Passaic County	(201) 345-7171	(201) 278-9223
Salem County	(609) 451-0003	(908) 678-8363
Somerset County	(908) 231-0840	(908) 685-2323
Sussex County	(201) 383-7400	(201) 267-5882
Union County	(908) 527-4769	(908) 353-4715
Warren County	(908) 475-2010	(908) 267-5882



Apr 08 2021 01:44PM Car Carrier 2159532054

page 5

03/30/2021 14:39

#958 P.015/017

HUD-L-000958-21 03/08/2021 3:37:44 PM Pg 1 of 3 Trans ID: LCV2021511535

**NICHOLAS M. TORRES ATTORNEY ID#: 048941994**  
**NICHOLAS M. TORRES, ATTORNEY AT LAW, LLC**  
**5300 BERGENLINE AVE., 3<sup>RD</sup> FLOOR**  
**WEST NEW YORK, NJ 07093**  
**OUR FILE NO.: 0425-19**  
**TEL: (201) 330-1119**  
**FAX: (201) 330-1161**  
**ATTORNEY FOR PLAINTIFF**

**RAUL MONROY VILLA,**

**PLAINTIFF,**

**VS.**

**CAR CARRIER INC, CAR CARRIER LLC,**  
**VASILY SHERBUK, GUSTAVO ARDON**  
**PERDOMO, GIOS LOGISTICS LLC,**  
**JD NESBITT-WARD, ONTARIO IN,**  
**JOHN & JANE DOES 1-10 (FICTITIOUS**  
**UNIDENTIFIED INDIVIDUALS) AND**  
**ABC CORPORATIONS 1-10 (FICTITIOUS**  
**UNIDENTIFIED BUSINESS ENTITIES),**

**DEFENDANTS.**

**: SUPERIOR COURT OF NEW JERSEY**  
**: LAW DIVISION: HUDSON COUNTY**  
**: DOCKET NO. HUD-L-\_\_\_\_\_**

**CIVIL ACTION**

**: COMPLAINT, JURY DEMAND &**  
**: DESIGNATION OF TRIAL COUNSEL**

Plaintiff, Raul Monroy Villa, residing at 6605 McKinley Place, in the Town of West New York, County of Hudson, and State of New Jersey, by way of Complaint against the defendants, says:

**FIRST COUNT**

1. On or about April 11, 2019, Plaintiff, Raul Monroy Villa, was a passenger of a motor vehicle operated, owned and/or controlled by the Defendants, Gustavo Ardon Perdomo and Gio's Logistics LLC, which was traveling on the New Jersey Turnpike, in the Borough of Carteret, County of Middlesex and State of New Jersey.
2. On the same date, Defendants Gustavo Ardon Perdomo and Gios Logistics, LLC were the



Apr 08 2021 01:44PM Car Carrier 2159532054  
From:

page 6

03/30/2021 14:39

7955 P.016/017

HUD-L-000958-21 03/08/2021 3:37:44 PM Pg 2 of 3 Trans ID: LCV2021511535

owners, operators and/or controllers of a motor vehicle traveling at or about the same location.

3. At the same time and place, the Defendants, JD Nesbitt Word and Ontario In were the owners, operators and/or controllers of a motor vehicle traveling at or about the same location.

4. At the same time and place, the Defendants, Vasily Sherbuk, Car Carrier Inc and/or Car Carrier LLC, were the owners, operators and/or controllers of a motor vehicle proceeding at or about the same location.

5. At the same time and place, the Defendants, did so carelessly, recklessly, and negligently own, entrust, maintain, repair, lease, control, and/or operate motor vehicles so as to cause a collision involving Plaintiff's.

6. As a direct and proximate result of the negligence of the Defendants, Plaintiff sustained severe and permanent injuries, suffered and in the future will suffer great pain and emotional distress, was and will be prevented from engaging in his usual activities and pursuits, and has and will incur medical expenses and lost wages.

7. This action is not barred by NJSA 39:6A-1, et seq.

WHEREFORE, plaintiff, Raul Monroy Villa, demands judgment against the defendants, for damages, interest, and costs of suit.

### **SECOND COUNT**

1. Plaintiff repeats and incorporate by reference the prior paragraphs of this complaint as if set forth at length herein.

2. Defendants, John and Jane Docs 1-10 and ABC Corporations 1-10 are heretofore unidentified individuals, corporations, and/or business entities named herein for the express purpose of tolling the applicable statute of limitations.

3. On the same date, defendants did so carelessly, recklessly and negligently operate their motor



HUD-L-000958-21 03/08/2021 3:37:44 PM Pg 3 of 3 Trans ID: LCV2021511535

vehicles so as to cause a motor vehicle collision involving plaintiff.

4. As a direct and proximate result of the negligence of the defendants, plaintiff sustained severe and permanent injuries, suffered and in the future will suffer great pain and emotional distress, was and will be prevented from engaging in his usual activities and pursuits, and has and will incur medical expenses and lost wages.

5. This action is not barred by NJSA 39:6A-1, et seq.

WHEREFORE, plaintiff, Raul Monroy Villa, demands judgment against the defendants for damages, interest, and costs of suit.

#### **JURY DEMAND**

Plaintiff demands a trial by jury of all issues as permitted by law.

#### **CERTIFICATION**

I certify that the within controversy is not the subject of any other action pending in any other court or of any pending arbitration proceeding pending or contemplated and that I know of no other party who should be joined in this action.

#### **DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, the firm of Nicholas M. Torres, LLC, attorney for plaintiff, Raul Monroy Villa hereby appoints Nicholas M. Torres as trial counsel.

NICHOLAS M. TORRES, LLC  
Attorney for plaintiff

*Nicholas M. Torres*

By: Nicholas M. Torres, Esq.

Date: March 8, 2021



Apr 08 2021 01:45PM Car Carrier 2159532054

page 8

03/30/2021 14:39

#956 P.014/017

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HUDSON COUNTY SUPERIOR COURT  
HUDSON COUNTY  
583 NEWARK AVENUE  
JERSEY CITY NJ 07306

COURT TELEPHONE NO. (201) 748-4400  
COURT HOURS 8:30 AM - 4:30 PM

**TRACK ASSIGNMENT NOTICE**

DATE: MARCH 08, 2021  
RE: MONROY VILLA RAUL VS CAR CARRIER INC  
DOCKET: HUD L -000958 21

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON KIMBERLY ESPINALES-MALONEY

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002  
AT: (201) 748-4400.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:5A-2.

**ATTENTION:**

ATT: NICHOLAS M. TORRES  
NICHOLAS M TORRES ATTORNEY AT  
5300 BERGENLINE AVE 3RD FLR  
WEST NEW YORK NJ 07093

ECOURTS